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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,750	03/30/2004	Jurgen Dannenmaier	GAMBRO 3.3-254 CONT	4500
530	7590	07-08/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			MENON, KRISHNAN S	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,750

Applicant(s)

DANNENMAIER ET AL.

Examiner

Krishnan S Menon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites "said filter housing", which has no antecedent basis. The phrase "a housing having" seems to be inadvertently omitted from the second line of the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-1-4,7 and 8 -10 are rejected under 35 U.S.C. 102(b) as being anticipated by Oscarsson (US 4,341,005).

Claim 1: Oscarsson teaches a method for producing a hollow fiber filter having a housing with first and second portion (10a, 10b-fig 1), laying the plurality of fibers in the first portion (fig 1), forming the filter housing by sealing the first and second portion (col 2 lines 54-62), connecting the plurality of fibers together on at least one end and with

the housing by applying a potting compound (col 3 lines 14-32), subsequently cutting the ends of the hollow fibers at least one end of the housing to have open ends for the fibers (col 3 lines 33-37).

It may be noted that the claim recites potting before cutting the fiber ends and then subsequently cutting the ends to open the ends. The reference does potting and then cuts the ends to open the ends of the fiber as taught in col 3 lines 14-37.

Claim also recites that the ends of the fibers are cut only after potting. However the reference teaches that the ends are cut to remove the fiber bundle in the housing from the winding wheel before potting. This is stated as an advantage over potting the fibers before cutting and removing from the winding wheel, and therefore the reference teaches potting while on the wheel before cutting, even if it is taught as an inferior method (see col 4 lines 4-14 and col 1 lines 20-28). A reference is no less anticipatory if, after disclosing the invention, the reference then disparages it. The question whether a reference "teaches away" from the invention is inapplicable to an anticipation analysis. *Celeritas Technologies Ltd. v. Rockwell International Corp.*, 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998)

Claim 2: sealing the terminal portions of the fibers to cover the ends of the fibers (col 3 lines 14-37)

Claim 3: rotary winding wheel – see fig 1.

Claim 4: severing the hollow fibers after sealing the first and second portions of the housing – col 2 lines 54-62

Claim 7: first and second portion of the housing are half-shell – see figures.

Claim 8: sealing method is gluing – as discussed in rejection of claims 1 and 2.

Claim 9: the first and second portion of the housing are clamped together prior to sealing – see col 2 lines 54-62, col 3 lines 14-32.

Claim 10: Oscarsson teaches a hollow fiber membrane tubular filter comprising a [filter housing] having first and second portion of half-shell shapes, bundle of hollow fibers disposed in the housing, ends of the bundle potted with the housing – see figures 1-3

Claim 14: the potting aperture recited in this claim is a part required for the process of making the filter, and is not a structural part in the finish product. In any case, such an aperture is shown in fig 2 at 23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oscarsson (005) in view of Baurmeister et al (US 4,724,900).

Oscarsson teaches all the elements of claim 1. Instant claims 5 and 6 add the further process limitation of flexible connecting the two halves of the housing and swinging the first and second portions, which is not taught by Oscarsson. Baurmeister teaches the flexible film hinge which would make the two halves swing – see figure 4. It

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would be obvious to one of ordinary skill in the art at the time of invention to use the teaching of Baurmeister in the teaching of Oscarsson to make the housing assembly easier and for automation as taught by Baurmeister (col 3 lines 1-20).

Claims 11-13 similarly recite flexible connectors which are film hinges for the product, which are taught by Baurmeister. Claim 13 also recite clamping, which is taught by Baurmeister – see 14 in fig 15. It may also please be noted that the flexible connectors and the clamping in the housing are only parts that are active in the assembly process, and not a structural or functional component of the finished product.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Krishnan Menon
Patent Examiner



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